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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,387	03/29/2001	Lebin Cheng	10010859-1	7378

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

SCHUBERT, KEVIN R

ART UNIT PAPER NUMBER

2137

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/823,387

Applicant(s)

CHENG, LEBIN

Examiner

Kevin Schubert

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.



**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because:

The applicant has brought dependent claims 5 and 6 into amended claim 1 and now argues that claim 1 is allowable based on the 103 rejection on claims 5 and 6 in view of Mohaban. The applicant argues that Mohaban is non-analogous art because the primary reference takes place in a security environment and Mohaban "cannot provide a hint, teaching or suggestion to use its techniques in data security systems such as Nessel and Hind since they are for an entirely different purpose" (Remarks 5/2/05, page 8). The examiner disagrees. Though Mohaban discloses a QoS policy system, he also discloses that his invention is applicable to security and other fields: "It is desirable to provide a way for multiple policy servers, each belonging to one or more different disciplines, such as Security, IP Address Management, or QoS, to interoperate" (Col 15, lines 59-62). Thus, Mohaban explicitly recognizes that his invention can be used in a security environment. In addition to the disclosure by Mohaban that his ideas can be used for security, Mohaban provides other support for a combination with the primary reference and is clearly analogous art. Mohaban, the primary reference, and the applicant's invention all are based on network management through a policy server, hence Mohaban's classification in the art as 709/223 (Computer Network Managing). Mohaban, the primary reference, and the applicant's invention also all disclose the use of a repository for storing application-specific policies to be implemented across a distributed network to monitor the flow of data through the network. Mohaban even goes so far as to disclose that these documents are XML (Col 16, lines 38-40), the exact format of the applicant's invention.

With regard to the applicant's argument that Mohaban does not disclose all the limitations of amended claim 1, the examiner disagrees. Mohaban discloses a hierarchy tree structure of network types for storing policies. For example, the qosPolicyvalue class is an abstract class with specific structural classes, which map specific value types, derived below it (Col 21, lines 34-62). For example, qosNumberValue models a numeric value. Thus a hierarchy is present from the abstract class qosPolicyvalue to the specific classes derived from it such as qosNumberValue. qosNumberValue is a type comprising a network role, which is to model numeric values. The numeric values are applications supported by the network. A similar illustration is present in Fig 8C where a hierarchy from qosPolicyDomains is shown all the way down to qosSubPolicy definitions.